

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

No. 601

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Introduced by Assembly ~~Member~~ *Members Cooley and Eggman*

February 20, 2013

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An act to amend Sections 3000.08 and 3056 of the Penal Code, relating to ~~probation~~ parole.

### LEGISLATIVE COUNSEL'S DIGEST

AB 601, as amended, ~~Eggman~~ Cooley. ~~Probation.~~ Parole.

*Existing law requires that persons released after serving a term in state prison for specified felonies be subject to parole supervision by the Department of Corrections and Rehabilitation. Under existing law, if the supervising parole agency has determined that other sanctions are inappropriate, the agency may petition the court to revoke parole for specified violations. The court may respond to this petition by returning the person to parole supervision with a modification of conditions, revoke parole and order confinement in county jail, or refer the person to a reentry court.*

*This bill would authorize the court, upon petition, to revoke parole and return the person to state prison for a period not to exceed one year. The bill would require the Legislative Analyst's Office, on or before January 1, 2015, to produce a report, to be delivered to the Assembly, the Senate, and the Governor's office, evaluating the criminal justice realignment, specifically with regard to offenders under state supervision, as specified.*

~~Existing law authorizes the court to grant probation to certain persons convicted of a crime. Under existing law, if a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the~~

court is required to refer the matter to a probation officer to investigate and report to the court the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment.

~~This bill would state the intent of the Legislature to enact legislation that would standardize the length of time individuals are placed on probation.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 3000.08 of the Penal Code, as amended*  
2     *by Section 35 of Chapter 43 of the Statutes of 2012, is amended*  
3     *to read:*

4     3000.08. (a) Persons released from state prison prior to or on  
5     or after July 1, 2013, after serving a prison term or, whose sentence  
6     has been deemed served pursuant to Section 2900.5, for any of the  
7     following crimes shall be subject to parole supervision by the  
8     Department of Corrections and Rehabilitation and the jurisdiction  
9     of the court in the county where the parolee is released or resides  
10    for the purpose of hearing petitions to revoke parole and impose  
11    a term of custody:

12    (1) A serious felony as described in subdivision (c) of Section  
13    1192.7.

14    (2) A violent felony as described in subdivision (c) of Section  
15    667.5.

16    (3) A crime for which the person was sentenced pursuant to  
17    paragraph (2) of subdivision (e) of Section 667 or paragraph (2)  
18    of subdivision (c) of Section 1170.12.

19    (4) Any crime where the person eligible for release from prison  
20    is classified as a High Risk Sex Offender.

21    (5) Any crime where the person is required, as a condition of  
22    parole, to undergo treatment by the *State Department of Mental*  
23    *Health State Hospitals* pursuant to Section 2962.

24    (b) Notwithstanding any other provision of law, all other  
25    offenders released from prison shall be placed on postrelease  
26    supervision pursuant to Title 2.05 (commencing with Section  
27    3450).

1 (c) At any time during the period of parole of a person subject  
2 to this section, if any parole agent or peace officer has probable  
3 cause to believe that the parolee is violating any term or condition  
4 of his or her parole, the agent or officer may, without warrant or  
5 other process and at any time until the final disposition of the case,  
6 arrest the person and bring him or her before the court, or the court  
7 may, in its discretion, issue a warrant for that person's arrest  
8 pursuant to Section 1203.2.

9 (d) Upon review of the alleged violation and a finding of good  
10 cause that the parolee has committed a violation of law or violated  
11 his or her conditions of parole, the supervising parole agency may  
12 impose additional and appropriate conditions of supervision,  
13 including rehabilitation and treatment services and appropriate  
14 incentives for compliance, and impose immediate, structured, and  
15 intermediate sanctions for parole violations, including flash  
16 incarceration in a county jail. Periods of "flash incarceration," as  
17 defined in subdivision (e) are encouraged as one method of  
18 punishment for violations of a parolee's conditions of parole.  
19 Nothing in this section is intended to preclude referrals to a reentry  
20 court pursuant to Section 3015.

21 (e) "Flash incarceration" is a period of detention in county jail  
22 due to a violation of a parolee's conditions of parole. The length  
23 of the detention period can range between one and 10 consecutive  
24 days. Shorter, but if necessary more frequent, periods of detention  
25 for violations of a parolee's conditions of parole shall appropriately  
26 punish a parolee while preventing the disruption in a work or home  
27 establishment that typically arises from longer periods of detention.

28 (f) If the supervising parole agency has determined, following  
29 application of its assessment processes, that intermediate sanctions  
30 up to and including flash incarceration are not appropriate, the  
31 supervising parole agency shall, pursuant to Section 1203.2,  
32 petition the court in the county in which the parolee is being  
33 supervised to revoke parole. At any point during the process  
34 initiated pursuant to this section, a parolee may waive, in writing,  
35 his or her right to counsel, admit the parole violation, waive a court  
36 hearing, and accept the proposed parole modification or revocation.  
37 The petition shall include a written report that contains additional  
38 information regarding the petition, including the relevant terms  
39 and conditions of parole, the circumstances of the alleged  
40 underlying violation, the history and background of the parolee,

1 and any recommendations. The Judicial Council shall adopt forms  
2 and rules of court to establish uniform statewide procedures to  
3 implement this subdivision, including the minimum contents of  
4 supervision agency reports. Upon a finding that the person has  
5 violated the conditions of parole, the court shall have authority to  
6 do any of the following:

7 (1) Return the person to parole supervision with modifications  
8 of conditions, if appropriate, including a period of incarceration  
9 in county jail.

10 (2) Revoke parole and order the person to confinement in the  
11 county jail.

12 (3) Refer the person to a reentry court pursuant to Section 3015  
13 or other evidence-based program in the court's discretion.

14 (4) *Revoke parole and order the person returned to state prison*  
15 *for a period of time not to exceed one year.*

16 (g) Confinement pursuant to paragraphs (1) and (2) of  
17 subdivision (f) shall not exceed a period of 180 days in the county  
18 jail.

19 (h) Notwithstanding any other provision of law, in any case  
20 where Section 3000.1 or paragraph (4) of subdivision (b) of Section  
21 3000 applies to a person who is on parole and the court determines  
22 that the person has committed a violation of law or violated his or  
23 her conditions of parole, the person on parole shall be remanded  
24 to the custody of the Department of Corrections and Rehabilitation  
25 and the jurisdiction of the Board of Parole Hearings for the purpose  
26 of future parole consideration.

27 (i) Notwithstanding subdivision (a), any of the following persons  
28 released from state prison shall be subject to the jurisdiction of,  
29 and parole supervision by, the Department of Corrections and  
30 Rehabilitation for a period of parole up to three years or the parole  
31 term the person was subject to at the time of the commission of  
32 the offense, whichever is greater:

33 (1) The person is required to register as a sex offender pursuant  
34 to Chapter 5.5 (commencing with Section 290) of Title 9 of Part  
35 1, and was subject to a period of parole exceeding three years at  
36 the time he or she committed a felony for which they were  
37 convicted and subsequently sentenced to state prison.

38 (2) The person was subject to parole for life pursuant to Section  
39 3000.1 at the time of the commission of the offense that resulted  
40 in a conviction and state prison sentence.

1 (j) Parolees subject to this section who have a pending  
2 adjudication for a parole violation on July 1, 2013, shall be subject  
3 to the jurisdiction of the Board of Parole Hearings. Parole  
4 revocation proceedings conducted by the Board of Parole Hearings  
5 prior to July 1, 2013, if reopened on or after July 1, 2013, shall be  
6 subject to the jurisdiction of the Board of Parole Hearings.

7 (k) Except as described in subdivision (c), any person who is  
8 convicted of a felony that requires community supervision and  
9 who still has a period of state parole to serve shall discharge from  
10 state parole at the time of release to community supervision.

11 (l) This section shall become operative on July 1, 2013.

12 *SEC. 2. Section 3056 of the Penal Code is amended to read:*

13 3056. (a) Prisoners on parole shall remain under the  
14 supervision of the department but shall not be returned to prison  
15 except as provided in subdivision (b) or as provided by *subdivision*  
16 *(f) of Section 3000.08 or* subdivision (c) of Section 3000.09. A  
17 parolee awaiting a parole revocation hearing may be housed in a  
18 county jail while awaiting revocation proceedings. If a parolee is  
19 housed in a county jail, he or she shall be housed in the county in  
20 which he or she was arrested or the county in which a petition to  
21 revoke parole has been filed or, if there is no county jail in that  
22 county, in the housing facility with which that county has  
23 contracted to house jail inmates. Additionally, except as provided  
24 by subdivision (c) of Section 3000.09, upon revocation of parole,  
25 a parolee may be housed in a county jail for a maximum of 180  
26 days per revocation. When housed in county facilities, parolees  
27 shall be under the sole legal custody and jurisdiction of local county  
28 facilities. A parolee shall remain under the sole legal custody and  
29 jurisdiction of the local county or local correctional administrator,  
30 even if placed in an alternative custody program in lieu of  
31 incarceration, including, but not limited to, work furlough and  
32 electronic home detention. When a parolee is under the legal  
33 custody and jurisdiction of a county facility awaiting parole  
34 revocation proceedings or upon revocation, he or she shall not be  
35 under the parole supervision or jurisdiction of the department.  
36 When released from the county facility or county alternative  
37 custody program following a period of custody for revocation of  
38 parole or because no violation of parole is found, the parolee shall  
39 be returned to the parole supervision of the department for the  
40 duration of parole.

1 (b) Inmates paroled pursuant to Section 3000.1 may be returned  
2 to prison following the revocation of parole by the Board of Parole  
3 Hearings until July 1, 2013, and thereafter by a court pursuant to  
4 Section 3000.08.

5 (c) A parolee who is subject to subdivision (a) but who is under  
6 18 years of age may be housed in a facility of the Division of  
7 Juvenile Facilities.

8 *SEC. 3. On or before January 1, 2015, the Legislative Analyst's*  
9 *Office shall produce a report, to be delivered to the Assembly, the*  
10 *Senate, and the Governor's office, evaluating the criminal justice*  
11 *realignment, specifically with regard to offenders under state*  
12 *supervision, including rates of recidivism, figures on violation of*  
13 *parole, the type and severity of reoffense leading to return to state*  
14 *prison, the history of parole violation in those cases leading to a*  
15 *return to state prison, and the adequacy of county facilities to*  
16 *confine parole violators.*

17 ~~SECTION 1. It is the intent of the Legislature to enact~~  
18 ~~legislation that would standardize the length of time individuals~~  
19 ~~are placed on probation.~~